

## **REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

Conventional soft serve ice cream is often dispensed from a pressurized scraped surface heat exchanger. These devices tend to be large and expensive. In contrast, the present invention is directed to a method of dispensing a food product such as soft serve ice cream, wherein the product in a container can be transported from a filling site to a dispensing site and placed in the dispensing apparatus. Since the present invention uses pre-energized containers, this makes it possible to practice the invention by dispensing in locations where no electrical power is available.

The invention of claim 1 comprises, therefore, a method of dispensing a frozen aerated food product which includes filling a container with a frozen aerated food product, transporting the container from the site of filling to a site at which the frozen food product is to be dispensed, locating the container in a dispensing apparatus and discharging the food product through an outlet of the container so that the frozen aerated food product flows out of the container. The container includes at least two compartments (A) and (B) and the compartments are gas tightly separately from each other by an at least partially movable wall. Compartment (A) contains a propellant and compartment (B) contains the food product and a valve.

The Office rejects the claims as obvious over Parekh et al., US Patent No. 5,361,941 in view of Malone et al., US Patent Application Publication No. US 2003/0134024. However, it is submitted that the Office has not established a *prima facie* case of obviousness.

As mentioned above, in the present method, a container is filled with a frozen aerated food product at a filling site. The container has at least two compartments, (A) and (B) which are gas tightly separated from each other by an at least partially movable wall. At column 5, lines 35-42, Parekh et al. describe a typical operation wherein a food product is poured into a flexible bag which is supported by tube container 6. The open end of the flexible bag is temporarily sealed and the food product is frozen so that the frozen food product can be shipped and stored. The Office points to no teaching by Parekh et al. of the frozen food product being placed prior to shipping in a container having the at least two compartments recited herein. Rather, in the Parekh typical food operation, prior to shipping food is poured into a flexible bag, that is, one compartment. Thus, the Office points to no teaching by Parekh et al. of the container used in applicants' recited method to transport the product from the filling site to the dispensing site.

Even less does the Office point to a teaching in the art of the inventions recited in the present dependent claims. For instance, in claim 6, the ice cream container is partially covered by a generally cylindrical casing made of Eutectic plates. In claim 7 the casing is made of insulating foam, and in claim 8 the casing comprises insulating foam panels. The Office points to no teaching of these in the shipping container of Parekh.

The Office has failed to point to a teaching of each element of the present claims. As mentioned in paragraph [0021] of the published application, the present invention uses pre-energized containers which, for instance, make it possible to practice the invention in locations where no electrical power is available to dispense and manufacture the ice cream. The Office points to no teaching by Parekh et al. of pre-energized containers.

The secondary references do not remedy the noted deficiencies of the primary reference. Accordingly, it is respectfully submitted that no *prima facie* case of

obviousness has been established and it is respectfully requested that the application be allowed.

Respectfully submitted,

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